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## Chapter VIII

SPECIAL CASE :

# The Gross Violation of Human Rights

### A. Human Rights in East Timor

Since the Dili massacre on November 12 1991, there has been no indication that there has been any improvement in the human rights situation in East Timor. In economic, political and social terms little has changed since the Indonesian invasion in 1975.

Following a the overthrow of the fascist regime in Lisbon, the Portuegese colonial government abandoned the territory in 1975. At that time there were three main political groupings in East Timor: Fretilin, which had a large social base of support and promoted full independence, UDT largely made up of the land owning elite who while supporting independence, sought a far less radical agenda of social change and the Indonesian party Apodeti, who supported integration with Indonesia.

Fretilin, with its large social base and wide popular support, was able to quickly fill the power vacuum left by the Portuguese and set up a new independent administration. A failed coup attempt by UDT and Apodeti following an election victory by Fretilin, provided the excuse for military intervention by Indonesia. With collaboration from Apodeti and sections of UDT, Indonesia invaded East Timor in December 1975 claiming that it was intervening in a "civil-war" at the request of the East Timorese people.

The United Nations still recognizes Portugal as the administrative power in East Timor and has passed a number of resolutions condemned the invasion and occupation. However, with political support from countries such as the US, Japan and Australia, Indonesia has been able to resist international pressure to



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allow an act of self-determination in the territory.

Over 200,000 people, a third of the population, have died as a result of the invasion and occupation. With military support from the US, Britain, France and Australia, massive military campaigns by the Indonesian armed forces were able to achieve military victory by the mid-1980s. Armed resistance continues however, and the country remains under tight military control. Fretilin's support and demands for independence continue to grow and sections of UDT has also begun to come behind demands for full independence.

In an attempt to placate international criticism, the Indonesian government has placed great emphasizing its development projects in the region. It has also embarked on massive a transmigration program with almost 30 percent of the population now being made up of migrants. A recent study by the Gajah Mada University in East Java however, concluded that the social structure of East Timorese society has been severely disrupted and the people deeply traumatized. Migrants have been the main beneficiaries of development in the region with the East Timorese largely excluded from jobs and positions in government. The provide remains the poorest in Indonesia.

***1. The Human Rights Situation in East Timor***

Despite the military victory on the ground, it is clear that the Indonesian government has been unable to win a political victory and demands for independence have been growing. Protests and demonstrations have continued, with the most recent being the Santa Cruz massacre in which as many as 200 people were killed and hundreds wounded or missing.

A number of people were arrested and charges with organizing the process. In most cases they were arrested and detained and had their houses searched without the valid legal procedures being adhered to. They were also denied proper legal representation, and those who attempted to obtain legal assistance from the Legal Aid Institute (LBH) were threatened and intimidated. This is despite the fact that Indonesian's Code of Criminal Procedure guarantees the right to legal representation for those accused of carrying out criminal acts.

Fretilin leader Alexander Xanana Gusmao, was captured in 1992 and sentenced on May 12 1993 to life imprisonment by the Dili court. A number of Xanana's family members or people involved in the struggle over the last sixteen years have also recently been captured. Almost without exception, those who have stood

trial have been denied due legal process. Defendants have been prevented from freely choosing legal representation, trial judges have forced defendants to verify accusations, defiance witnesses have been prevented from giving testimony and public access to trials restricted. Tight military security during court proceedings have also prevented human rights activists from observing the trials and journalists have been carefully screen before being allowed into court sessions. The government has also tightly controlled press reports of the trials.

## B. ACEH: A FOREVER RESTLESS REGION

### *1. A glance at Aceh's history of upheavals*

Aceh has had a long history of upheaval since the colonial period. Following Indonesian independence in 1945, 1946 saw the beginnings of a fierce conflict between "ulamas" (Islamic religious scholars) who were united in the All Aceh Alliance of Ulamas (PUSA) and the traditional hereditary rulers of the area, the "Uleebalang". Known as the Cumbok War, it ended with the overthrow of the Uleebalang and has remained a source of inspiration for more recent struggles against the government.

Lead by Daud Beureuh, the Darul Islam rebellion between 1953 and 1962 was based on demands that Aceh become an province in its own right. The movement also sought to establish an Islamic state based on the teachings of Sjariah law. Following a compromise with the central government, the region was declared a "Special Region" in May 25 1959.

Dissatisfaction with the JAKARTA government has persisted however. In 1977 the Hasan Tiro established the Free Aceh Movement (GAM) which continues to struggle for full autonomy from Indonesia. Other smaller movements have also emerged, such as the Tengku Bantaqiah movement in Sigli in the Pidie regency in May 1987 and in the first half of 1990, a movement referred to by the Indonesian government as a "Security Disrupters' Band". In the first few months of 1990, peaking in May, up to thousands of people were killed by government soldiers. Many more were arrested and charged with subversion. Many members of the group are still facing trial.

### *2. Background of the Upheavals*

Since the early 1970s there has been rapid growth in medium and large scale industry in Aceh. The process of development has divided the province into two distinct economic zones, both in a geographical and demographic sense. An industrial zone has developed in the areas centered on the city municipalities of Sabang and Banda Aceh and the regencies of Aceh Besar (Greater Aceh), North Aceh and

East Aceh while the regencies of West Aceh, Southeast Aceh, South Aceh and Central Aceh remain primarily agricultural.

Large scale migration into the industrial enclave areas of the East and North coastal areas has resulted in severe imbalances in population, with these areas accounting for approximately 65% of the population (Tempo - magazine, June 30 1991). Problems have also arisen from the combination of an overabundance of labour in a region dominated by high technology industries requiring a small highly skilled work force. Despite education programs aiming to improve the level of skills in the region, many industries still prefer to bring labour in from elsewhere. The issue of migrant labour become a source of widespread discontent and violence in the eighties. In 1987, youths attacked migrant laborers applying for work with the fertilizer company PT AAF in the Uteun Geulinggang and Kreung Geukeh regions. The rapid transformation from a predominantly peasant economy has also lead to social problems as the traditional gemeinschaft community social structures have been progressively replaced by gessellschaft relations. Migrant workers enjoying modern facilities and accommodation, has also created tensions in the community.

In industrial enclaves like Lhokseumawe there has also been a growth of bureaucratization both in government and the private sector. This has resulted in both government agencies and migrants having very little credibility in the local community. The increasingly metropolitan lifestyle in these towns has often come into conflict with traditional Acehense social values and lead to a number of clashes. In August 1989, the Cottage Surya Aceh in the village of Northwest Hagu, in Lhokseumawethe was bombed by local residents who believed it was involved in "immoral" activities such as drinking, gambling and prostitution. In 1989 the Oriental Circus was attacked and burnt to the ground by a crowd of about eight thousand people. In May 1989, a number of buildings were burned down when crowds rioted at the Blang Kolam Waterfall recreation center in Kuta Makmur sub-regency, East Aceh. Even the police have become the targets of local anger. At the beginning of 1988 the Idi Cut Police Station was attacked and set on fire by a crowd who believed one of the officers was entertaining a prostitute. These problems are further exacerbareta by the authorities to deal with such incidents. The authorities actions frequently display a failure to understand the role of the religious and cultural ties which binding Acehnese society together.

The scale of industrialization in the north has been huge. Liquid natural gas production alone earns 2.5 billion US dollars per year, or 7

million dollars per day. Industries in the north support up to 75 percent of the total economic life of the province with investments by the five largest enterprises reaching to tens of billions of dollars and employing over 6000 workers. Major disruptions to local market mechanisms have resulted from the imbalance between the incomes of those directly involved in these industries and the members of the surrounding communities. Problems have also arisen with high levels of industrial pollution damaging local ecosystem.

These kind of problems have resulted in accusations that the economic activity is not benefiting the people of Aceh, but is bringing with it social and cultural disruption. The government has responded to these criticism by stressing that future development in the province will prioritize projects which will improve conditions for the local people. Officially notified development projects between 1989 and 1990 have been increased four fold (Editor magazine, June 30 1990).

An expert on political affairs, Dr Nazaruddin Sjamsuddin in his book Pemberontakan Kaum Repulik (The Revolt of the Republicans) argues that despite Aceh's long history of struggle against Dutch colonialism, the region was never well integrated with other parts of Indonesia. During the colonial period Acehnese society had almost no relations with the nationalist movements in other parts of Indonesia. This view is also supported by Eric Morris in Aceh: Revolusi Sosial dan Pandangan Islam (Aceh: Social Revolution and the View of Islam) who argues the issue of language during colonial period also inhibited the process of integration. The emerging Indonesian nationalists spoke Dutch which not being understood by Acehnese leaders. This both isolated them from the real thoughts and ideas of the nationalist movement and prevented them from sharing common experiences during the anti-colonial struggle.

### 3. *Notes on the Most Recent Upheavals*

Between the middle of 1989 to its peak in around May of 1990, there was unceasing hostility and killing between ABRI and the supporters of GAM. On May 25 1989, a district military commander, first Lieutenant Zakaria and an other soldier killed in the Tiro mountains in the Pidie sub-regency. On September 26 of the same year, Private Ismail Ali was shot dead and Private Zakaria was seriously wounded in the Nisam sub-regency of North Aceh. On January 2 1990 a police sergeant from the Peikom Baro Police sector in Pidie was stabbed to death. On March 9 Sergeant Major A R Ali was hacked to death in the village of Alue of Leuhob in North Aceh. The next day Second Police Sergeant Samad Kurniawan, from the Mila Pidie police

sector was shot dead, and then on April 3 1990 First Corporal A Djalil, from the Syamtalira Aron police sector in North Aceh, was killed in a fusillade of gunfire.

The military have responded by establishing night curfews and an extensive network of check points throughout the province. There are at least 8 or 9 check points on the main road between the cities of Medan and Banda Aceh for example. Convoys of military trucks are a common sight in towns and villages and police stations and military barracks are barricaded with sandbags, sand filled drums and rolls of barbed wire. Armed conflict between security forces and members of the separatist group are frequent. In an armed conflict on August 17 1990 in the Idi sub-regency local troops were forced to request re-enforcements from the Teuku Umar and Lilawangsa Military Resorts. Thousands of additional troops had to sent into the province including members of the Special Forces (Kopassus) stationed in Java, an airborne artillery unit and a number of other units from the Bukit Barisan Military Command in Medan, North Sumatra.

Cases of maltreatment and violence at checkpoints are common. Male passengers are usually asked to get out of vehicle and their possessions searched while women passengers are searched inside the vehicles. Those who were considered to be suspicious or without identity cards were often interrogated on the spot and may be beaten, ordered to do push-ups or even detained. Identity checks have also claimed lives. Two teen-agers riding a motorcycle in Simpang Ulin were killed when they were fired on by troops after they refused to stop. In mid-April 1990, Agus Effendi, the son of Abdul Djalil, the First Assistant of the Regional Secretary for North Aceh was shot dead by troops for failing to stop at a checkpoint at the Cunda bridge in Lhokseumawe.

Hundreds and possibly even thousands of mysterious corpses were found throughout the province in 1990. Most corpses simply left in rubber and oil palm plantations or alongside road or in rivers. The modus operandi of killings were nearly always the same. Most of the victims were found without bullet marks, but their hands or feet had been bound together with cloth, with a distinctive knot tying together their thumbs or big toes. Their bodies either bore the marks of being beaten with blunt instruments or were found in such an advanced state of decomposition that it was difficult to determine a cause of death. Their faces were no usually unrecognizable. According to many in the Acehnese community, the "mysterious corpses" were the result of a military campaign of "shock therapy" aiming to deter the community from supporting or being sympathetic to GAM. The official explanation given by the government was

that the corpses had been the victims of an internal conflict in the separatist movement itself.

Mass arrests and detentions carried out by the security forces have created widespread fear in the Acehnese community.

Thousands of people have been arrested and detained without their families knowing where and for how long they were being held. Goals, police stations and military bases were crammed with prisoners. It is believed that the military detention center in Medan, in the neighboring province of North Sumartra, has had to be used in order to accommodate the large number of prisoners. In late 1990 and early 1992, the military released hundreds of prisoners who it claimed had had a low level of involvement in unrest. It is calculated that some 800 people have been freed in this way, without due legal process. Many others are yet to be released or to appear in court.

### *4. Judicial Processes in the Aceh Case*

The first round of court cases trying those accused of involvement in GAM began on March 16 1991. In total, nine cases were heard in Banda Aceh, one in Lhok Nga, four in the Lhokseumawe State Court, three in the Langsa State Court and three in the State Court in Medan. In all cases the defendants were charged with subversion.

The entire process of arrest, detention and investigation in these cases was veiled in secrecy. Often family members were not even informed of an arrest and prisoners were often prevented access to family members and legal representatives. In 14 cases lawyers from the Legal Aid Institute were not permitted to contact the defendants or to seek information concerning their location or condition.

However, information contained in defense speeches, defendants' rejoinders and statements by witnesses in several of these cases gives a good picture of the kind of treatment the defendants were subjected to during detention. Amirsyam, Drs. Adnan Beuransha and Marwan, complained of torture and mistreatment during their arrests and interrogations during their trials. (See The Legal Aid Foundation of Indonesian's Resume of Observations of the Judicial Process in the Aceh Cases, July 1991).

Not all of the defendants in the GAM cases were brave enough to make complaints in court. But it can be assumed that most of them received treatment similar treatment. This was further supported by the physical condition of dependents in the hearings at the Banda Aceh

State Court. When Drs Tengku Effendi (31) entered the courtroom during the first session, he was stooped over and unable to support himself and had to be supported by two court officials. Mulkan Usman (38), was unable to walk properly during the first session and in later sessions only walked with the aid of a stick. A witness Jailani Hasan, was also unable to walk and needed supported from court officials.

A number of further matters concerning the process of arrest, detention and interrogation in the Aceh cases have been uncovered by an observation team from the Legal Aid Institute. These include:

1. No family members of any of those arrested or detained have been issued with copies of arrest orders or arrest warrants as is provided for in the Code of Criminal Procedure, article 18, sections 1 to 3.
2. During the period when they were being held for investigation, practically all suspects in these cases were held in communicado. They were allowed no access from their family members or legal assistance from lawyers. In addition to being detained in detention centers in Jantho and Lhok Nga and goals in Lhokseumawe and Rancung in Lhokseumawe, according to information the detainees were also held in a number of other places. These included the Banda Aceh Goal, the Military Resort 012 Intelligence Platoon headquarters at Teuku Umar in Lampineung, Banda Aceh and the Military Detention Center in Keudah, also in Banda Aceh. In Lhokseumawe some were also held in the Lilawangsa Intelligence Platoon headquarters and in the local Military District Command headquarters. Information was also obtained that detainees were held in Medan in the Tanjung Gusta Jail, the Gaperta military detention center and in a number of other locations. In Langsa people were detained at the Langsa Goal and at the local Military District Command headquarters. A number of other places of detention in Acehnese towns were also crammed full with prisoners in connection with the cases.
3. According to information provided by the defendants in their defense speeches, statements of evidence and rejoinders, most of the defendants were arrested in 1990. But the indictments presented by the Public Prosecutors in these cases invariably stated that the defendants were first detained in 1991. It is thus clear that most of these defendants were detained for a period of

some months without any clear or legal status without legal authorization.

The first round of GAM trials has been concluded. Seventeen cases were heard in Courts in the jurisdiction of the Special Region of Aceh and four were heard in the Medan State Court. All defendants in these cases were sentenced to goal terms of between five and twenty years. Since this time, a number of other cases have been heard. The total number of trials related to the Aceh affair now stands at more than fifty. The final case, which is still being heard, is that of H. Usman Ali (51), an entrepreneur and member of the North Aceh Regional House of Representatives from the Golkar fraction. The case is being handled by lawyers from the Legal Aid Institute. ■